

FINAL STATEMENT OF REASONS

UPDATE OF INITIAL STATEMENT OF REASONS

The Office of the State Fire Marshal (SFM) has updated the Initial Statement of Reasons and recommends approval of the proposed regulatory action.

Pursuant to Health and Safety Code §13160, the State Fire Marshal shall adopt regulations for the sale, marketing, use and servicing of all portable fire extinguishers. The State Fire Marshal proposes to add: CCR, Title 19, Division 1, Chapter 3, Section 557.19(d) and amend Section 560.4 Vehicle Marking.

SPECIFIC PURPOSE AND RATIONALE

The proposed regulations will establish the requirements for the marking of portable fire extinguisher service vehicles.

The State Fire Marshal Fire Extinguisher Advisory Committee consists of members from local fire departments, industry, and consumer groups. They assisted in developing and provided input and review of the proposed regulations.

COMMENTS RECEIVED DURING THE PUBLIC COMMENT PERIODS

The text of the proposed regulations was made available to the public for 45 days from October 29, 2010 through December 13, 2010. The Office of the State Fire Marshal received 18 public comments. Upon further review and consideration of the comments, the Office of the State Fire Marshal proposed to make minor modifications to the text of the regulations by adding an amendment to Title 19 Sections 557.19 and 560.4 to clarify the definition of service vehicle and the marking of the vehicle.

The modified text was made available to the public for 15 days from July 28, 2011 to August 12, 2011. The Office of the State Fire Marshal received one comment during this time period supporting the modifications.

SUMMARY AND RESPONSE TO COMMENTS RECEIVED DURING THE 45-DAY INITIAL NOTICE PERIOD FROM OCTOBER 29, 2010 THROUGH DECEMBER 13, 2011.

COMMENT NO. 1. Mr. Fletcher took issue with our statement that this new rulemaking "will have no substantial effect on individuals or businesses". He opposes the permanent marking of service vehicles. His employees own their own service vehicles and therefore would be required to permanently mark them

with his business name and licensing information. He feels he would have no control of what they were doing when not working on company business.

RESPONSE: The Office of the State Fire Marshal agrees with Mr. Fletcher comments on the permanent marking of service vehicles and made a change to the proposed regulations to allow other types of marking such as magnetic signs.

COMMENT NO. 2. Mr. Eric Gardner opposes these regulations for several reasons. He often has to leave his vehicle unattended, throughout the day and also at his residence at night, and believes a marked vehicle would significantly increase his chances of being a target of a burglary. Also, as a sole proprietor, he has a second personal van which he occasionally uses for emergency business which would also be required to be permanently marked. He also disagrees with our statement that marking of service vehicles would help to eliminate fraud. He suggests an alternative of requiring service personnel to wear a uniform.

RESPONSE: The Office of the State Fire Marshal agrees with Mr. Gardner's comments on the permanent marking of service vehicles and made a change to the proposed regulations to allow other types of marking such as magnetic signs. The Office of the State Fire Marshal disagrees with his comment concerning fraudulent business practices. These new regulations will give a local fire department another tool to use in the enforcement of the law and regulations, by requiring the fire extinguisher service vehicle be identified. Also his alternative of requiring service technicians to wear a standard uniform statewide would be unmanageable because of the diversity of the state.

COMMENT NO. 3: Mr. Chuck Stegman opposed the permanent marking of service vehicles. He feels that leaving his marked service vehicle would increase his chances of the being burglarized. He also believes that cost would be prohibitive to a small business when buying or selling a vehicle if it is required to be permanently marked.

RESPONSE: The Office of the State Fire Marshal agrees with Mr. Gardner's comments on the permanent marking of service vehicles and made a change to the proposed regulations to allow other types of marking such as magnetic signs.

COMMENT NO. 4: Unknown Commenter opposed the permanent marking of service vehicles and offered an alternative requiring that service personnel wear a uniform shirt.

RESPONSE: The Office of the State Fire Marshal agrees with the commenter's on the permanent marking of service vehicles and made a change to the proposed regulations to allow other types of marking such as magnetic signs. The Office of the State Fire Marshal disagrees with the commenter's alternative of requiring a standard uniform for all service technicians. The alternative of requiring service technicians to wear a standard uniform statewide would be unmanageable because of the diversity of the state.

COMMENT NO. 5: Mr. Allen Keefe opposed the permanent marking of service vehicles. His employees own their own service vehicles and therefore would be required to permanently mark them with his business name and licensing information. He feels he would have no control of what they were doing when not working on company business. He stated that he would not oppose removable signs.

RESPONSE: The Office of the State Fire Marshal agrees with Mr. Keefe comments on the permanent marking of service vehicles and made a change to the proposed regulations to allow other types of marking such as magnetic signs.

COMMENT NO. 6: Mr. Joshua Martin comments that he believes marking of service vehicles will not dissuade fraudulent actives. He believes aggressive enforcement is needed to control these actives. He often has to leave his vehicle unattended, throughout the day and also at his residence at night, and believes a marked vehicle would significantly increase his chances of being a target of a burglary.

RESPONSE: The Office of the State Fire Marshal disagrees with his comment concerning fraudulent business practices. These new regulations will give a local fire department another tool to use in the enforcement of the law and regulations, by having the fire extinguisher service vehicle plainly identified. The Office of the State Fire Marshal agrees with his comments on the permanent marking of service vehicles and made a change to the proposed regulations to allow other types of marking such as magnetic signs.

COMMENT NO. 7: Mr. Richard Romo believes marking of service vehicles will not dissuade fraudulent actives. He believes more aggressive enforcement actions are is required to stop these actives. He felt that leaving his permanently vehicle marked unattended would increase his chance of the being burglarized.

RESPONSE: The Office of the State Fire Marshal disagrees with the comments concerning fraudulent business practices. These new regulations will give a local fire department another tool to use in the enforcement of the law and regulations, by requiring the fire extinguisher service vehicle be identified. The Office of the State Fire Marshal agrees with his comments on the permanent marking of service vehicles and made a change to the proposed regulations to allow other types of marking such as magnetic signs.

COMMENT NO. 8: In an email signed only Lariat, Lariat believes that marking of service vehicles will not dissuade fraudulent actives. Lariat also believes more aggressive enforcement actions are is required to stop these actives. Lariat felt that leaving a permanently marked service vehicle unattended would increase the chance of the vehicle being burglarized.

RESPONSE: The Office of the State Fire Marshal disagrees with the comments concerning fraudulent business practices. These new regulations will give a local fire department another tool to use in the enforcement of the law and regulations, by requiring the fire extinguisher service vehicle be identified. The Office of the State Fire Marshal agrees with his comments on the permanent marking of

service vehicles and made a change to the proposed regulations to allow other types of marking such as magnetic signs.

COMMENT NO. 9: Mr. Richard Henry opposes the regulation as written and suggests an exception for public entities holding a State Fire Marshal Type L limited fire extinguisher service license.

RESPONSE: The Office of the State Fire Marshal understands the comment. These regulations do not apply to vehicle with exempt license plates. These regulations are intended for private service company vehicles not vehicle with exempt license plates.

COMMENT NO. 10: Mr. Frank Klein is concerned with requiring a service vehicle to be licensed as a commercial vehicle when the vehicle is used by public entities having exempt licensed plates.

RESPONSE: The Office of the State Fire Marshal understands the comment. These regulations do not apply to vehicle with exempt license plates. These regulations are intended for private service company vehicles not vehicle with exempt license plates.

COMMENT NO. 11: Ms. Mia Aguilar-Matutina is concerned with requiring a service vehicle to be licensed as a commercial vehicle when the vehicle used by public entities having exempt licensed plates

RESPONSE: The Office of the State Fire Marshal understands the comment. These regulations do not apply to vehicle with exempt license plates. These regulations are intended for private service company vehicles not vehicle with exempt license plates.

COMMENT NO. 12: Mr. Richard Taylor is concerned with requiring a service vehicle to be licensed as a commercial vehicle when the vehicle is used by public entities having exempt licensed plates

RESPONSE: The Office of the State Fire Marshal understands the comment. These regulations do not apply to vehicle with exempt license plates. These regulations were intended for private service company vehicles not vehicle with exempt license plates.

COMMENT NO. 13: Mr. Frank Gardner is concerned with requiring a service vehicle to be licensed as a commercial vehicle, when the State Fire Marshal Type L limited Fire Extinguisher service License is for servicing their own fire extinguishers only.

RESPONSE: The Office of the State Fire Marshal understands the comment. These regulations do not apply to vehicle used to service their own equipment. These regulations are intended for a private service company licensed to conduct business in the State of California.

COMMENT NO. 14: Mr. David Walemeyer is in support of the proposed new regulations regarding marking fire extinguisher service vehicles. He believes the

proposed amendments to Title 19 which defines "Service Vehicle" and requiring all such vehicles be plainly identifiable will greatly assist in protecting his business community from fraudulent misrepresentation.

RESPONSE: The Office of the State Fire Marshal agrees with Mr. Walemeyer's comments.

COMMENT NO. 15: Mr. Terry Thompson supports the proposed new regulations regarding marking fire extinguisher service vehicles.

RESPONSE: The Office of the State Fire Marshal agrees with Mr. Thompson's comments.

COMMENT NO. 16: Mr. George Seymour supports the proposed new regulations regarding marking fire extinguisher service vehicles.

RESPONSE: The Office of the State Fire Marshal agrees with Mr. Seymour's comments.

COMMENT NO. 17: Steven Earley supports the proposed new regulations regarding marking fire extinguisher service vehicles.

RESPONSE: The Office of the State Fire Marshal agrees with Mr. Earley's comments.

COMMENT NO. 18: Mr. Page Dougherty representing the California State Firefighters Association supports requiring private fire protection companies to display their company name and state license number on their vehicles.

RESPONSE: The Office of the State Fire Marshal agrees with Mr. Dougherty's comments.

SPECIFIC SECTIONS WHICH HAVE BEEN AMENDED AND/OR ADDED SINCE THE PUBLICATION OF THE 45 DAY NOTICE PERIOD

Section 557.19 was further amended to add the exact California Vehicle Code Section. The previously proposed section only cited the California Vehicle Code with out giving the exact section, by adding the exact code section this will assist the code user in locating the requirements.

Section 560.4 was further amended to allow additional types of vehicle marking such as magnetic signs. This is to address public concerns about permanently marking the service vehicle and the cost of markings.

SUMMARY AND RESPONSE TO COMMENTS RECEIVED DURING THE 15-DAY NOTICE OF MODIFICATIONS PERIOD FROM JULY 28, 2011 THROUGH AUGUST 12, 2011.

COMMENT NO. 1: Mike Esparza supports the proposed new regulations regarding marking fire extinguisher service vehicles.

RESPONSE: The Office of the State Fire Marshal agrees with Mr. Esparza comments.

ALTERNATIVES DETERMINATION

The State Fire Marshal has determined that no alternative would be more effective in carrying out the purpose for which the regulation is proposed or would be as effective as and less burdensome to affected private persons than the proposed regulation.

LOCAL MANDATE DETERMINATION

The proposed regulation does not impose any mandate on local agencies or school districts.

COORDINATION WITH FEDERAL LAW

The State Fire Marshal has determined that this proposed regulatory action neither conflicts with, nor duplicates any federal regulation contained in the Code of Federal Regulations.